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HOUSE BILL 141

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mary Helen Garcia

AN ACT

RELATING TO CRIMES AGAINST CHILDREN; ESTABLISHING THE OFFENSE
OF GIVING BIRTH TO A CHILD WHO HAS FETAL ALCOHOL SYNDROME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. GIVING BIRTH TO A CHILD WHO HAS FETAL ALCOHOL
SYNDROME.--

A. Giving birth to a child who has fetal alcohol
syndrome consists of giving birth to a child who is diagnosed
by a confirmed medical finding as having fetal alcohol
syndrome.

B. As used in this section:

(1) "birth" means the complete expulsion or
extraction from its mother of a child, irrespective of the
duration of pregnancy, after which the child breathes or shows
any other evidence of life such as beating of the heart,

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1 pulsation of the umbilical cord or definite movement of
2 voluntary muscles, whether or not the umbilical cord has been
3 cut or the placenta is attached; and

4 (2) "fetal alcohol syndrome" means a syndrome
5 documented and confirmed by a physician's medical finding
6 through current clinical tests that a child has:

7 (a) the three specific facial
8 abnormalities of a smooth philtrum or underdeveloped groove
9 between the nose and upper lip, small palpebral fissures or
10 small longitudinal opening between the upper and lower eyelid
11 and a thin vermilion border of the lip;

12 (b) prenatal or postnatal height or
13 weight or both under the tenth percentile adjusted for age,
14 sex, gestational age and race or ethnicity; and

15 (c) central nervous system
16 abnormalities, including a head circumference under the tenth
17 percentile after adjustment for age and sex, clinically
18 meaningful brain abnormalities, motor problems or seizures not
19 resulting from a postnatal insult or fever and global
20 cognitive, functioning or intellectual deficits representing
21 multiple domains of deficit below the third percentile with
22 attention or hyperactivity.

23 C. Whoever gives birth to a child who has fetal
24 alcohol syndrome is guilty of a misdemeanor, unless the fetal
25 alcohol syndrome results in the child's death, in which case,

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the child's mother is guilty of a second degree felony.

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